

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

RICHARD L. SHELTON,

Plaintiff,

-against-

BURGIS D. SETHNA, Individually, and as an
Officer and Officer of Bank Card New York
and Bison Commercial Leasing Corp., BANK
CARD NEW YORK, and BISON
COMMERCIAL LEASING CORP.,

Defendants.

Civil Action No. 10-CIV-4218 (TPG)
ECF Case

JUDGMENT

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WHEREAS in the above-captioned matter, Plaintiffs RICHARD L. SHELTON initiated an action via summons and complaint filed May 25, 2010 with the Clerk of Court of the United States District Court for the Southern District of New York and the subject summons and complaint were duly served upon Defendants BURGIS D. SETHNA, BANK CARD NEW YORK and BISON COMMERCIAL LEASING CORP. on June 11, 2010;

WHEREAS Defendants appeared in this action through counsel by filing an Answer on August 13, 2010 and Defendants subsequently engaged in motion practice in this action;

WHEREAS by Opinion dated March 26, 2012, the Court granted in part and denied in part the parties cross-motions for summary judgment, dismissing Counts I, V and VI of the Complaint, but otherwise denied the motions for summary judgment;

WHEREAS by Order dated April 30, 2012, the Court granted the request of Defendants' second attorney in this action to withdraw as counsel; the Court's Order directed the parties to contact the Courtroom Deputy to select a date and time for a status conference in May 2012; and Defendants were served with a copy of such Order by their outgoing counsel on May 2, 2012;

WHEREAS Defendants failed to contact the Courtroom Deputy; the Court held a status conference on May 14, 2012; Defendants failed to appear personally or through counsel at the status conference; and the Court directed Plaintiff to move for default based upon Defendants' failure to defend the action;

WHEREAS Defendants have failed to contact the Court or opposing counsel since their counsel was granted withdrawal on April 30, 2012; Defendants have failed to participate in this action in any sense since their second counsel withdrew; and Defendants have failed to defend this action;

WHEREAS Defendants BANK CARD NEW YORK and BISON COMMERCIAL LEASING CORP. are corporate entities and must appear through counsel admitted or otherwise authorized to practice in this judicial district, but have not had counsel in this action since April 30, 2012;

WHEREAS on August 28, 2012, the Court entered default judgment in favor of Plaintiff and against Defendants BURGIS D. SETHNA, BANK CARD NEW YORK and BISON COMMERCIAL LEASING CORP.;

NOW, upon motion of Plaintiff for judgment, it is hereby:

ORDERED, ADJUDGED AND DECREED that Plaintiff RICHARD L. SHELTON shall be awarded judgment and recover against BURGIS D. SETHNA, BANK CARD NEW YORK and BISON COMMERCIAL LEASING CORP. in the amount of **\$17,000.00** in compensatory general damages plus pre-judgment interest at **9%** annually accruing at the daily rate of **\$4.19** from October 7, 2007 until the date of judgment in an amount equal to \$9,058.44 making in all the sum of **\$26,058.44** that Plaintiff shall be granted execution therefor;

ORDERED, ADJUDGED AND DECREED that Plaintiff RICHARD L. SHELTON shall be awarded judgment and recover against BURGIS D. SETHNA, BANK CARD NEW YORK and BISON COMMERCIAL LEASING CORP. in the amount of **\$35,550.00** in compensatory general damages plus pre-judgment interest at **9%** annually accruing at the daily rate of **\$8.77** from December 18, 2007 until the date of judgment in an amount equal to **\$18,311.66**, making in all the sum of **\$53,861.66** that Plaintiff shall be granted execution therefor;

ORDERED, ADJUDGED AND DECREED that Plaintiff RICHARD L. SHELTON shall be awarded judgment and recover against BURGIS D. SETHNA, BANK CARD NEW YORK and BISON COMMERCIAL LEASING CORP. in the amount of **\$5,000.00** in consequential damages plus pre-judgment interest at **9%** annually accruing at the daily rate of **\$1.23** from December 6, 2007 until the date of judgment in an amount equal to **\$2,605.24**, making in all the sum of **\$7,605.24** that Plaintiff shall be granted execution therefor;

ORDERED, ADJUDGED AND DECREED that Plaintiff RICHARD L. SHELTON shall be awarded judgment and recover against BURGIS D. SETHNA, BANK CARD NEW YORK and BISON COMMERCIAL LEASING CORP. in the amount of \$20,367,687.00 in consequential damages, making in all the sum of \$20,367,687.00 that Plaintiff shall be granted execution therefor;

ORDERED, ADJUDGED AND DECREED that the Clerk of Court is directed to enter Judgment in this case in favor of Plaintiff RICHARD L. SHELTON and against BURGIS D. SETHNA, BANK CARD NEW YORK and BISON COMMERCIAL LEASING CORP. in the amounts specified above; and

ORDERED, ADJUDGED AND DECREED that the Clerk of Court is directed to close this case for all purposes.

Judgment Signed this fifth day of September, 2012,

SO ORDERED:

By: Thomas P. Griesa
Hon. Thomas P. Griesa,
United States District Judge

RUBY J. KRAJICK,
Clerk of Court

By: [Signature]

THIS DOCUMENT WAS ENTERED
ON THE DOCKET ON _____